

REMARKS

In the Office Action dated September 14, 2005, claims 2 and 12 were objected to under 35 U.S.C. §1.75(c) as being of improper dependent form, because the Examiner stated the subject matter of those claims is not consistent with the subject matter of the independent claims from which they respectively depend.

In response, independent claims 1 and 11 have been amended to explicitly differentiate between the service data that is available at the data center, and is to be loaded into the service device (this being "new service data"), and the current service data that are already stored in the service device (this being designated as "existing service data").

Moreover, the Examiner stated that claims 2 and 12 recite a loading step followed by establishing a communication link with the data center "based on said loading." The Examiner stated claims 1 and 11 require communication with the data center first and then, based on the communication, loading into a service device. Applicants find no basis for the statement of the Examiner that claims 2 or 12 establish a communication link with the data "based on said loading." The communication that is established between the service device and the data center in claims 1 and 11 is for the purpose of transmitting a status report from the service device to the data center. As also set forth in claims 1 and 11, the data center then analyzes this status report and, based thereon, generates recommendations for loading the new service data that are to be transmitted from the data center to the service device. These recommendations are then communicated from the data center to the service device and, upon receipt of this message at the service device, the service device checks those recommendations for feasibility as to memory

location occupancy. The new service data are then loaded into the memory of the service device according to one of the recommendations that has been determined to be feasible.

Therefore, none of the communications from the service data to the data center is "based on said loading" as contended by the Examiner.

Dependent claims 2 and 12 further limit the subject matter of respective claims 1 and 11 by setting forth a condition or criterion for establishing the communication from the service device to the data center, this condition or criterion being a check as to whether a load instruction has been entered into the service device. This load instruction is simply an entry made at the service device that initiates the entire communication procedure that ultimately results in the actual loading of the new service data into the service device. This load instruction does so by, as mentioned, initiating the establishment of the aforementioned communication. There is thus no inconsistency between claims 1 and 2 nor between claims 11 and 12.

Claims 1-20 were rejected under §112, second paragraph as being indefinite for several reasons.

The Examiner stated that the first limitation of claim 1 recites "a status report of memory location occupancy by said service device in said memory," but according to the preamble of claim 1 the service data are available at the data center. The aforementioned differentiation between "new service data" and "existing service data" is submitted to overcome this basis for the rejection under §112.

The Examiner also stated that claim 1 recites "forming recommendations in said data center for a future status of said memory location occupancy...". The

Examiner stated that to one of ordinary skill, the term “memory location occupancy” refers to the status of the status report and not to the actual memory in the service device. In response, each of independent claims 1 and 11 has been amended to delete the words “status of said” from said phrase, so that now each of independent claims 1 and 11 states that the data center forms recommendations for a future memory location occupancy in the service device.

The Examiner further stated that claim 1 states that the data center makes recommendations “designating a different memory location to be occupied by said service data.” The Examiner stated this phrase is unclear as to whether the service data is to be stored in a single memory, or in one area of a multiple-area memory. The Examiner noted that claim 2 explicitly states that the memory has first and second areas, and describes the conditions for storing the new service data in the first area.

The Examiner is correct that claim 1 is non-specific as to whether a single memory, or a memory area of a multi-area memory, is intended, but Applicants submit this does not make claim 1 ambiguous or unclear, but merely makes claim 1 generic, to cover both possibilities. The fact that a claim includes generic language that encompasses multiple different possibilities is not a basis for such a claim failing to satisfy the requirements of §112, second paragraph, particularly where, as here, one of those possibilities is then specifically defined in a dependent claim. The Examiner’s interpretation of “the “designating step” of claims 1 and 11 meaning that each recommendation designates the memory set aside for service data is satisfactory to the Applicants.

Claim 2 was rejected under §112, second paragraph for the same reason that form the basis of the aforementioned objection under 37 C.F.R. § 1.75(c), and therefore the rejection of claim 2 under §112 is submitted to be overcome for the same reasons discussed above in connection with that objection.

The Examiner also noted that claim 2 includes the phrase "memory areas," which the Examiner stated has insufficient antecedent basis. Claims 2 and 12 have been amended to avoid this lack of antecedent basis.

All claims of the application are therefore submitted to be in full compliance with all provisions of §112, second paragraph.

As extensively discussed in previously-presented Amendment "B" (filed February 22, 2005) in the last paragraph of page 12 of that amendment through the end of page 14 of that amendment, the communication procedure between the service device and the data center that is summarized above, and that is set forth in independent claims 1 and 11 is for the purpose of making sure that when new service data are downloaded from the data center to the service device, appropriate memory capacity and an appropriate memory locations are available for the new service data. In accordance with the invention, the service device initiates the overall procedure by sending a status report to the data center that includes an indication of memory location occupancy by existing service data in the memory, in the form of a designation of available bytes in the memory. Based on this status report, the data center then generates one or more recommendations for storing the new service data that will be downloaded. The service device then evaluates these recommendations as to feasibility since it is the service device, and not the data center, that can most easily interrogate the details of the memory occupancy at the

service device. One of these recommendations is then accepted as being feasible, and the data center downloads the new service data to a memory location in accordance with the recommendation that has been determined to be feasible.

Claims 1-7, 10-17 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bass et al. in view of Landis et al. This rejection is respectively traversed because neither of these references, singly or in combination, discloses or suggests a procedure as described above. In fact, the Landis et al. and Bass et al. reference exhibit the very problems in the prior art that the method and apparatus of the present application are designed to overcome.

In substantiating the aforementioned rejection, the Examiner relied on the Abstract and column 7, lines 55-61 and column 8, lines 25-40 of the Bass et al. reference as providing a teaching to form a recommendation in the data center for a future status of the memory location occupancy in the service device based on a status report transmitted to the data center by the service device. Applicants respectfully submit the Examiner has over-generalized the language of independent claims 1 and 11. As noted above, each of claims 1 and 11 was amended, in accordance with agreements reached at the interview, to specifically define the status report as being "a status report of memory location occupancy by said service data in said memory comprising a designation of available bytes in said memory." As also noted above the term "said service data" in this phrase has now been amended to "existing service data." Therefore, when the term "said status report" is used later in claims 1 and 11 in the limitation "based on *said status* and the new service data available at said data center, forming recommendations in said data center for a future memory location occupancy in said service device," the term "said

status report” includes the aforementioned definition of comprising a designation of available bytes in said memory. There is no teaching in the Bass et al. reference that any of the actions taken by the data center in that reference are based on a status report that includes a designation of available bytes in the memory.

As described in the Bass et al. passages relied upon by the Examiner, a communication procedure between the data center and a service device is conducted to inform the data center of an “inventory” of components in the service device, as well as to inform the data center of other details such as serial number, address, version numbers of currently installed software, rate data and other information (column 7. lines 7-20). In this “inventory,” if a memory is included, the data center may be able to ascertain the manufacturer’s designated capacity for that memory (in other words it’s total capacity when empty), but there is no teaching whatsoever in the Bass et al. reference to communicate any information regarding a status of the memory location by existing service data comprising a designation of available bytes in said memory, as set forth in claims 1 and 11 of the present application. In other words, the information communicated in the communication protocol established in Bass et al. describe characteristics and attributes of the various components in the manner of a specification sheet, but no information is provided regarding the current memory status in the service device by a designation of available bytes in that memory.

As noted above, the aforementioned rejection was based on Bass et al. and Landis et al., however, at page 6 of the Office Action, in the further substantiation of the rejection, the Examiner continued to rely on the Abumehdi et al. reference. At the interview conducted June 20, 2005, the Examiner already agreed that by further

defining the "memory location occupancy" as comprising a designation of available bytes in said memory, this would distinguish over the teachings of a then-pending rejection wherein the Abumehdi et al. reference was relied upon as the primary reference. In view of Applicants' aforementioned statements regarding the Bass et al. reference, and in view of this previous acknowledgement of the Examiner regarding the teachings of Abumehdi et al., even if the Bass et al. reference were modified in accordance with the teachings of Abumehdi et al., the subject matter of independent claims 1 and 11 still would not result.

At page 7 of the Office Action, the Examiner relied on the Landis et al. reference as providing teachings relevant to claims 2, 3, 12 and 13, For similar reasons to those noted above, even if Landis et al. (with or without Abumehdi et al.) were modified in accordance with the teachings of Landis et al., the subject matter of those dependent claims, which embody the subject matter of respective independent claims 1 and 11 therein, still would not result. The same arguments apply to the other dependent claims 4-6, 7 and 14-16, 17 for which the Examiner relied on Abumehdi et al., and the same arguments apply to dependent claims 10 and 20, for which the Examiner again relied on the Bass et al. reference.

Claims 8, 9, 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bass et al., Abumehdi et al. and Landis et al., further in view of Freestone et al. For similar reasons to those discussed above, even if the original combination were further modified in accordance with the teachings of Freestone et al., the subject matter of claims 8, 9, 18 and 19 still would not result.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is therefore respectfully requested.

Submitted by,

Steven H. Noll

(Reg. 28,982)

SCHIFF, HARDIN LLP
CUSTOMER NO. 26574
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Applicants.

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